

HOUSE No. 3259

The Commonwealth of Massachusetts

PRESENTED BY:

Peter J. Koutoujian

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act prohibiting the use of certain communication devices while operating a motor vehicle. .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Peter J. Koutoujian	10th Middlesex
Ruth B. Balser	12th Middlesex
Denise Provost	27th Middlesex
Susan C. Fargo	Third Middlesex
Alice K. Wolf	25th Middlesex
Matthew C. Patrick	3rd Barnstable
Carl M. Sciortino, Jr.	34th Middlesex
John W. Scibak	2nd Hampshire
Cory Atkins	14th Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT PROHIBITING THE USE OF CERTAIN COMMUNICATION DEVICES WHILE OPERATING A MOTOR VEHICLE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority
of the same, as follows:*

SECTION 1. Section 8 of chapter 90 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the third paragraph the following paragraph:—
A person holding a junior operator’s license shall not use a mobile telephone while driving. For the purposes of this section, a “mobile telephone” shall include, but not be limited to, a mobile telephone utilizing cellular, analog, satellite, wireless or digital telephone technology, and capable of sending or receiving telephone communications. A violation of this section shall be punishable by a suspension of a junior operator’s license for not more than 1 year and fine of not more than \$100. It shall be an affirmative defense for a junior operator to produce documentary or other evidence that the telephone call that is the basis of the alleged violation was made for the sole purpose of seeking emergency assistance. A violation of this paragraph shall not be considered as a conviction of a moving violation of the motor vehicle laws for the purpose of determining surcharges on motor vehicle premiums pursuant to section 113 of chapter 175. An insurance company doing business in the commonwealth shall not deny an individual the right to purchase a motor vehicle liability policy based on a violation of this paragraph.

SECTION 2. Said chapter 90 is hereby amended by inserting after section 24P, as so appearing, the following section:—

Section 24Q. (a) For the purposes of this section, a “mobile telephone” shall include, but not be limited to, a mobile telephone utilizing cellular, analog, satellite, wireless or digital telephone technology, and capable of sending or receiving telephone communications.

(b) A person shall not operate a motor vehicle on a public way:

- (1) while holding a mobile telephone in one or both hands or with any other part of the body; or
- (2) while using or operating a mobile telephone, unless the a mobile telephone is affixed to the vehicle or is part of a fixture in the vehicle and remains so affixed while being used or operated,

or is specially adapted or designed to be affixed to the driver as headgear and is so used, to enable the driver to use or operate the mobile telephone without holding it in the manner contemplated in clause (1), and remains so affixed while being used or operated.

(3) while sending, reading, or writing a text message. A person shall not send, read, or write a text message when selecting or entering a phone number or name in a wireless communication device for the purpose of making a phone call.

(c) This section shall not apply to the following persons operating motor vehicles in the execution of their duties:

(1) the driver of a fire-fighting vehicle;

(2) the driver of a rescue vehicle or an ambulance; or

(3) a state, county, or local public safety official, if operating the vehicle with due regard to the safety of others.

(d) A violation of this section shall be punishable by a fine of not more than \$100. A second and subsequent violation shall be punished by a fine of not more than \$250.

(e) It shall be an affirmative defense for an operator to produce documentary or other evidence that the phone call that represents the alleged violation was made for the sole purpose of seeking emergency assistance.

(f) A violation of this section shall not be considered as a conviction of a moving violation of the motor vehicle laws for the purpose of determining surcharges on motor vehicle premiums pursuant to section 113 of chapter 175. An insurance company doing business in the commonwealth shall not deny an individual the right to purchase a motor vehicle liability policy based on a violation of this section.